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Professor James F. Simon

PROFILE OF THE NYLS CRIMINAL DEFENSE CLINIC

AN INTERVIEW WITH DEAN SIMON

By Rick Marchese

"I think the students here are absolutely first rate," stated Dean Simon during the course of an interview conducted with this writer and a reporter from *The Advocate*. The compliment was just one of many the Dean paid to the student body of New York Law School (NYLS) as he sat in his 2nd floor office at 47 Worth Street fielding a wide range of questions on his views of NYLS. Seemingly relaxed and confident in his new position as the chief administrator of NYLS, the Dean sounded an enthusiastic, upbeat note throughout the interview as he spoke of the future of the school.

Dean Simon is serving officially as the Dean Pro Tem of the school until the dean search committee finds a permanent replacement for former Dean Donald Shapiro. Dean Simon would not speculate on when this could occur. He did indicate, however, that the committee is conducting a very extensive hunt for a new dean, and that two or more candidates will be closely looked at in the coming months.

When asked to rate the strengths of NYLS, Dean Simon responded without hesitation, "the faculty — particularly the young faculty." The Dean spoke enthusiastically about the outstanding quality and the fine reputation of NYLS professors, and he indicated that "some very good people" will be joining the faculty in the next year or two. "I am very actively involved in faculty improvement," he said, although he would not elaborate on who were being considered for positions at the school. He was obviously very excited about the people currently under consideration.

The student body was rated a close second to the faculty by the Dean in his appraisal of NYLS strengths. "People that come here are usually surprised to find out how good our students are," said the Dean. He remarked that he, too, was impressed by the

caliber of NYLS students when he first came to teach here, and that the student body has improved year by year ever since his arrival at NYLS.

The Dean cited the facilities of NYLS and the placement office as areas in which improvement is needed in order for the school to retain a top level faculty and student body. Rumors of a possible new building for NYLS has been circulating for quite some time now, but the facilities, only to say that there are plans in the future to expand and that such plans were being carefully studied.

One goal that the Dean hopes to accomplish during his tenure is to motivate the placement office to produce more positive results for NYLS students seeking their services. "I am aware of the critical need for an effective placement office," said the Dean, "and I am very actively involved in encouraging our placement office to be more aggressive in their policies."

He added that, "I've been told by the faculty that I should be more than a caretaker dean."

Although he first approached his new job with some trepidation, Dean Simon now relishes the challenge of the day-to-day administration of NYLS, finding it "more interesting than I anticipated." Despite his busy schedule, the Dean has continued to teach his course in constitutional law this semester (he did, however, drop his course in administrative law), and he is hoping to complete in the not-to-distant future the writing of a book which he has been working on for some time.

Our interview with Dean Simon ended as his secretary brought in the lunch he had ordered for the day — one Coke, a bag of potato chips, and a sandwich (not from Gil's). Not really a lunch fit for a dean, but he's trying. "It takes some adjustment," said Dean Simon. "People know I'm working hard on it, and I think they appreciate it."

Wendy R. Berman

You approach a law student who sits hunched over coffee and a bagel at a table in Gil's. You cheerfully inquire how she is feeling on this fine, sunshiny spring morning. Then you listen to a litany of exhaustion and overwork that makes you wish you had stayed in bed.

Sounds no different from the moanings of all law students, right? But this student is a member of the NYLS Criminal Defense Clinic and when she says she's working harder than she ever has in her life, she really means it.

The Criminal Defense Clinic, according to the official description is "a closely supervised internship in client representation and courtroom litigation." The clinic is supervised jointly by Professor Eugene Cerruti and Clinical Professor Lloyd Epstein. Professor Epstein came to NYLS in September of '82, a graduate of the New York University Law School's criminal defense clinic, and of four and a half years of litigation experience with Legal Aid.

Professor Epstein emphasizes that the clinic is of great value to any student interested in litigation, not only those planning to do criminal defense work. The clinic gives students exposure to the entire litigation process—from arraignments, plea bargaining, motion practice to trial and possible appeal.

Under the Special Student Procedure Rule of the New York Appellate Division, 1st Department, students may represent clients in all court proceedings. There are two conditions under this rule. Students must be directly supervised at all times that they are representing clients and they must receive a minimum number of hours of intensive training in trial advocacy.

Students commit themselves to the clinic for a full academic year. During that year they are provided with a continuing intensive course, which includes lectures, films, demonstrations, workshops and mock trials, designed to prepare them in the mechanics of the criminal courts system, criminal procedure, the techniques of trial advocacy, client interviews, negotiations with prosecutors, etc.

The fully prepped students are then assigned cases, usually misdemeanors that are referred to the clinic from Legal Aid. The clinic handles up to eighty cases a year. Most are disposed of without going to trial. The students will prepare motions, represent their clients at arraignments and where necessary, negotiate pleadings.

One of the great benefits of the clinic is the intense motion practice in which students engage. Here, as Professor Epstein puts it, a student who has been taught only to write in "law review

style" must learn to write as an advocate to a court. There is a great difference in styles. Professor Epstein calls this "written advocacy".

This year the members of the clinic had several opportunities to take cases past the pleading stages. They handled two felony trials and a suppression hearing. After each of these proceedings the students were highly praised by the courts for their preparation and general professionalism. Professor Epstein pointed out that the clinic students have one advantage over outside legal counsel in that they do not have as large a case load and can devote more time to each of their cases.

There are currently 14 students in the Criminal Defense Clinic. These students were chosen from among fifty applicants. The lack of space for all the students who would like to benefit from this clinic's unique program is a continuing problem. Professor Cerruti explains that clinical instruction is a particularly expensive form of legal education.

The clinic has recently lost a substantial portion of its operating funds due to federal cutbacks. NYLS has replaced the funds lost, but has not provided extra funds for a larger staff so that the clinic could expand.



LAW REVIEW



On Friday April 15, students from New York Law School presented their annual Law School Revue entitled "The Final Days"; it was a light-hearted spoof of Dean Donny's (played by Justin Levine) last days as dean of a prestigious law school — he was assisted by his voluptuous Angels (Sharon Lynn Silver, Anita Wilstein, and Joyce Mark). The production was entirely conceived and organized by students. Larry Gershberg was the director, and the executive producer was Aaron Friedman. Music was provided by the "Not NYU Orchestra" ably led by Charlie Sanders with Jackie Bianchi, Phil Meltzer, Alan Sanders, Eric Schwedok, and Robert Smith. The play lasted over two hours and consisted of eleven different skits.

Some of the highlights of the evening included: a take-off on the Supreme Court with Cyril Means (Jon Gartner), Justice William Rehnquist (Michael Greifinger), Justice Thurgood Marshall (Cornell Edmonds), and

Justice Sandra Day O'Connor (Kathy Mahan and Evelyn Smith) — who admirably sang "Look At Me I'm Sandra Day"; the Law School Bowl between NYLS and Harvard (Stuart Mack, Elizabeth Rousos, Daniel Greenberg, Yvonne Jacobs, Oscar Michelin, Cornell Edmonds, and Paul Friman), "Big Mac" with Bob Smith and the svelte dancing girls (Leslie Lipton and Evelyn Smith), and Professor Robert Blecker who played a rousing rendition of "Gloria" on the spoons — to name just a few skits.

Special thanks go not only to the director and executive producer but also to the assistant producers Jon Gartner and Pat Granna, head writer Peter Glase and the whole writing staff, the stage crew, every cast member, stage manager Cindy Kouril, Dean Margaret Bearn, Dean Graham, and the entire NYLS community for their enthusiastic support and for helping to make the show such a wonderful success!

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Congratulations to the June '83 Graduates!

A PRACTICAL APPROACH TO OBJECTIONS

By Betty A. Llantín

"Patience and gravity of hearing is an essential part of justice; and an overspeaking judge (or attorney) is no well-tuned cymbal."

Bacon's essay "Of Judicature."

In our adversarial system today, there is a lack of decorum among lawyers and judges in courtroom proceedings. One of the contributing factors to this problem is the distractions caused by excessive, irrelevant and unnecessary objections made by attorneys in the courtroom. Objections frequently waste time and always interrupt the pace of a trial. Any objection is apt to make an unfavorable impression on the jury, or at least some of the jurors.^{1/} "The trial lawyer who constantly exclaims 'I object,' without rhyme or reason for his objection only annoys the judge and displays a glaring lack of knowledge of the rules of evidence."^{2/}

It is the attorney's function to determine matters of strategy. For example, the lawyer decides when to place the case on the calendar, whether to cross-examine a witness, the extent of such examination and what type of opening or closing statement he should make. It is also up to the attorney to decide if and when objections should be made.

Objections, when properly made, can be constructive and persuasive, however, excessive and inappropriate objections are disruptive, burdensome and extremely annoying to jurors and judges as well as other attorneys. More importantly, an attorney who sits and constantly makes trifling, irrelevant and unnecessary objections, not only distracts the jury and the whole judicial proceeding, but also imperils his chances of winning the case. An attorney's constant intrusions will engender resentment and animosity from the judge. Furthermore, such conduct may elicit the jury's undue sympathy for the opposing attorney and thereby prejudice the outcome of the objecting attorney's case.

Judicial proceeding should be conducted through dignified and orderly procedures in order to protect the rights and interests of all parties. Although a lawyer has the duty to represent his client zealously, he should not engage in any conduct that offends the dignity and decorum of proceedings.^{3/}

The purpose of an objection, generally, is to allow counsel to express disapproval of some circumstance of the proceeding, to limit the consideration of the facts to the jury and to limit the statement of law to the court.^{4/} An objection must have a basis in law or fact so that when counsel states the reason for the objection, the judge will know the sufficiency of the objection, the opponent will be given an opportunity to correct the error, and the appellate court will have a basis upon which to weigh the merits of the objection if the case is appealed.^{5/} In addition, objections should be specific, concrete and definite, since a ruling of "sustained" or "overruled" is meaningless and ineffectual if the objection was too general, abstract or vague.^{6/}

Counsel should know the grounds for his objections and should not base them on guesswork. The basis for an objection must always be an alleged infraction of a rule of evidence. The objection may be general or specific. It may be directed to the 1) form of a question put to a witness, 2) substance of the question, 3) substance of the answer sought, 4) incompetence of the witness to answer a specific question, 5) failure to lay the proper founda-

tion for the introduction in evidence of a particular exhibit and, 6) impropriety of a proposed exhibit.^{7/} If the attorney does not state the grounds for his objection, such objection, is insufficient. Additionally, an inappropriately grounded objection will be readily overruled and no useful purpose will be served thereby.^{8/}

Ideally, the time to raise an objection is before an impropriety occurs, but that is not always possible. However, an objection should always be made as soon as a rule of evidence has been violated. When the attorney determines that an objection is in order he should wait until the opposing counsel finishes the question or sentence, unless the opening words of the question or statement are patently objectionable. Next, the objecting attorney must rise to his feet, object, and state the grounds for the objection. The attorney making the objection must remain standing until the court rules on the objection. The opposing counsel, may in turn, make any counter-arguments to the objection. Then, both attorneys must wait for the judge to rule on the objection before the trial can continue. The objecting attorney should endeavor to prevent opposing counsel from asking another question and the witness from answering until the court rules on the objection. He may politely raise his hand toward the opposing counsel and the witness while requesting that the court rule on the objection.^{9/}

Moreover, counsel should object if opposing counsel attempts to rephrase the question or ask a new one, or if the witness answers before the objection can be made or a ruling given on the objection. He should move to have any such question or answer stricken from the record, and to have the jury instructed to disregard it.^{10/}

If the court permits argument on the merits of the objection and it is expected that the argument will be long, counsel should request that the jury be excused. "Counsel should not begin to argue the merits of the objection until the court invites him to do so, and he should wait until his opponent is seated before stan-

ding to address the court. He should never make remarks during the presentation of the opposing argument or while remaining seated.^{11/}

During argument, counsel should at all times direct his remarks to the court, not to opposing counsel or the witness. Counsel should never argue with the court. He should make his motion for a desired order or ruling, and take exception to an adverse ruling or a refusal to rule.^{12/}

In making his objections, counsel should be courteous to the opposing attorney and to the court. An attorney should preserve with timely and reasonable objections all adverse action by the court, opposing counsel and other parties. He should be alert and even eager, but never loud or disrespectful. A belligerent or ungentlemanly attitude is unnecessary and improper. Even though clients, as litigants in adversary proceedings may harbor ill feelings

(Continued on Page 7)

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1983 American Scholastic Press Association Winner

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Letters To THE EDITOR

To the Editor

As a student personnel administrator, I make it a point to read student publications. It is important for me to know what students are thinking.

It is difficult for me to express the feelings I had after reading Mr. Conchar's "The Complaint Bureau." While he may have had some valid complaints, his manner of expression did little to enhance his credibility. The column was more suitable for publication in *The National Lampoon* than in *Equitas*. Mr. Conchar's "expose" was a disservice to himself and to the students whose interests he alleges to represent.

Sincerely,
Keri M. Herzog
Assistant Director of
Financial Aid

Mr. Arnold Graham, Vice Dean
Mr. Phil King
New York Law School
57 Worth Street
New York, N.Y. 10013

Dear Sirs,

I wish to express my thanks to you and to the administration for having opened the law school's private parking facility to students affected by the current transit strikes. This generous response, in no way required of you, is greatly appreciated.

Most of us go through heroics to reach the city as a result of the strikes, and on some days carrying the extra loads of books while trying to cope with off-hours public transit is just too much. On those long days, I drive in and use the lot.

Sincerely,
Dean C. Hurley

1983 award winner

EQUITAS
New York Law School

Dear DeeAnn Delgado, Michael Greifinger and staff,

You have a very good publication, filled with in-school and extra-curricular information that would be interesting to the average student. Congratulations to all staff members whose time and effort have helped to make *Equitas* a success.

I have enjoyed reading *Equitas* and hope to have the opportunity to do so again next year. Keep up the good work.

Sincerely,
Judge, ASPA, 1982

Equitas is proud to announce that it has won the first place award in the American Scholastic Press Association contest. We at *Equitas* are proud to see all our efforts rewarded with this honor.

Editorials

SINK OR SWIM

New York Law School has taken a serious step in easing first year student fears, by teaching them how to cope with the rigors of law school. It has implemented a first year legal methods program which provides direction and a more thorough orientation, which assists in the transition from undergraduate studies, to the study of law, with its meta language and its intricacies.

Equitas would like to see more formalized programs to insure the retention of all those who are admitted. A 30% or greater attrition rate should not be acceptable. To have gained access to law school a student must have continued to prove his competencies, and it is a waste to have his expectations shattered because there were not sufficient resources available to insure his success.

Law School is a training ground for the realities of the world in which we live. The knowledge imparted are the tools of our profession. We are expected to sink or swim very much like in the real world. However useful this attitude is in building independence, resourcefulness, and character, the law school environment should be a trifle more compassionate and offer guidance to those who seek it. A meaningful retention program should be instituted. Learning skills need to be sharpened, study habits further reinforced, and

numerous practice exams administered, if the students are to be adequately prepared for finals. Many do not necessitate such a program and they need not attend. But those who may feel somewhat insecure, and the study of law, especially in the first year lends itself to insecurity, such a program may be the catalyst which makes the difference.

Workshops should be administered by competent instructors as well as upper classmen who are willing to impart with some of their valuable time, or perhaps as paid tutors pursuant to a work-study program. The retention program should be the faculty's responsibility, after all they are the most qualified to insure its success. The program should be verifiable and its results disclosed. The expenditure in time, money, and effort to insure the success of such a program are comparatively minute when balanced against the benefits to be realized. *Equitas* believes the law school has a duty to provide the best possible education. Included in that education is a support mechanism, and policy realignment to insure the retention of all qualified students. The educational experience for those who participate in the program will have been enlarged, and their fears would have substantially abated.

New Board for 1983-1984

EQUITAS is pleased to announce that the following people have been elected to the 1983-84

Editorial Board:

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Ingrid Castro

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Yvonne Jacobs

Business Manager:

Justine Levine

Associate Editor:

Glenda Calander

Congratulations & Welcome Aboard!

A B C D

By Susan Cardia

Exam anxiety wasn't enough,
Grade anxiety has swept N.Y. Law School!

How quickly the news spread:
The Civil Procedure grades were posted.
The big decision: to go, or not to go?
I decided to go.
Standing in front of a list full of numbers and letters: which one is mine?
Not remembering my exam number,
Only a few digits,
I narrowed it down to two grades...
D-, couldn't possible me.
Could it?
What would I tell my family?
I could always leave the country.
Should I go to the registrar's office and get my exam number?
I did.
I am not leaving the country.

Sitting in Gil's
The topic of conversation: Alternative careers!
I was contemplating opening up a Susan's Cookies (like Davids Cookies).
I make great oatmeal raisin chocolate chip nut cookies!
Kathy mentioned that Bob was interested in nursing;
He would look cute in a skirt!
The laughter was filled with anxiety and fear,
Should we be in law school?
Will we get jobs upon graduating?
It is nice to know that grade anxiety is something to be shared.

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THE LAMP OF KNOWLEDGE
BY INGRID CASTRO

POINT OF VIEW

— 30 —

By D. Scott Conchar

Right now graduation is so close I can taste it, and let me tell you it tastes better than one of Gil's prepackaged pastries. Anyway, as my days here become numbered I find myself reflecting upon my experiences here at "No, not N.Y.U.," and trying to characterize it in an accurate fashion. It ain't easy.

My memories here are mixed and many, from the sublime to the ridiculous (with emphasis on the latter). For instance, the thing I remember most about the first year orientation was the particle of organic matter suspended from the upper lip of Dean Shapiro and how it waved in the wind as he spoke. I recall thinking "gee, what a classy guy." I remember my first grade here, an "F" from Professor Epstein in Property I, and my first "A", from Professor Epstein in Property II (you explain it, I can't)!

I remember being scared to death of Professor Koffler until I realized that he wasn't nearly as rotten as he would lead you to believe. (By the way Professor, just what is the real story behind you and Dean Prosser?) My most vivid memory, or course, is how dreadfully dull law school can be.

My time here was also filled with wonderment. I always wondered why the Placement Office would send me lists of law firms to which I could not apply and why they would then supplement the lists with other firms to which I couldn't apply (you know the ones, the firms that only interview those in the top 10% and on law review). I could never figure out whether the women on "B5" were being sadistic to the "bottom ninety" or whether they were just trying to save us stamps. I wondered why Dean Bearn is always smiling. I wondered why the school seemingly always scheduled construction work for exam times. Speaking of exams, I often wondered where the school got the proctors, do they run an ad or is there an agency you can go to? My most perplexing question, though, is "does Dean Shapiro really think that this is the 'Harvard on the Hudson'?"

On the other hand, my experience here has not been entirely negative. I've had some great Professors, primarily the "young Turks" like Kibbey, Leonard and Dent, and have met alot of talented individuals whom I am honored to consider as friends. They've been of inestimable assistance in helping me wade through all the horse manure inherent in attending law school. If nothing else it's been worthwhile going to school here just for the opportunity to associate with these people. (Albeit that I tired of explaining that I don't go to N.Y.U.)

In sum, I would have to say that my overall experience here has been pleasant, despite the best efforts of the powers that be. To the people that have made this so I say thank you. To the others I bid adieu, and remember, don't call me, I'll call you, maybe.



By Miguel Fittipaldi, Esq.

The 30 column is the privilege of an editor to say good-bye. It is the great opportunity afforded a graduating editor to express himself candidly about his tenure as editor and his experience at New York Law School.

Equitas at the onset of this academic year was in a state of disarray. I was given the chance to play an integral part in its "revival" and to work hard among a special group of individuals who would not let a 13 year old tradition die. I speak for the majority of the Editorial Board when I say that one of our most challenging experiences at the law school was the decision to establish Equitas as a viable newspaper once again. Our reputations and ability to be effective were challenged, we anticipated a difficult time and were not disappointed. However, we quickly secured a printer for a reasonable price, solicited articles and sold advertising to cover our costs. The means to remain independent and exercise a strong voice in the New York Law School community was insured. Important principles such as the First Amendment were defended, and reason prevailed against the wishes of many who selfishly desired our demise. I can only say that there is great personal pride and satisfaction in the knowledge that Equitas survived admirably, and is perhaps stronger than ever. I feel proud to have been a part of it. As I feel proud to be a New York Law School graduate. This school acts as a vehicle to accomplish one's educational and professional aspirations. It affords an opportunity, that if carefully utilized, represents a mode for upward mobility, prestige, and status. Certainly none of these will come easily, nothing thus far has, and nothing worthwhile ever does. New York Law School, although not providing a guarantee, offers the chance.

Too often, for too many of us, the administration has not met our needs. This has not been my personal experience but represents a legitimate concern which can be corrected. The facul-

ty at New York Law School is exceptional; both its full time and part time professors. Their experience inside and outside of the classroom deserves mention; their knowledge and expertise are invaluable. We are fortunate to have such a distinguished faculty. I am certain the new professors will be equally as competent. I only hope though that serious consideration will be given to the hiring of new Hispanic and Black professors. We are one of the nations leading schools in minority enrollment and this should be reflected in our educators. There are numerous qualified candidates.

Another important issue is that New York Law School needs a yearbook. I am rather surprised the administration has not seen the value of a yearbook and how it would serve the students by providing a directory and preserving memories in priceless photographs. The New York Law School community would be greatly enhanced by such a publication.

New York Law School is a unique institution. Its student body is diversified and representative of our society. Its location is uniquely situated in the heart of the financial and legal world. Its reputation is respected and continues to grow and rival our strongest competitors. It offers endless possibilities. This law school also has one asset which will never appear on any balance sheet...its students. They are a wealth of resources and potential. They are too unique. In few law schools will students so readily and willingly share of themselves, class notes, outlines and friendship. I have been fortunate enough to see and experience true camaraderie at New York Law School, not indifference.

My overall experience has been a positive one. I am a proud alumnus and look forward to my continued involvement in New York Law School. I urge everyone in the New York Law School community to contribute, support and read Equitas, and for the students to remember this is your newspaper, join the staff of Equitas, voice your opinions.



By Michael Greifinger

It is very difficult to write a good-bye column. In my three years at NYLS, we have gone through many changes. The things which seemed so vital then, seem so insignificant now. I have composed this column in my mind many times in the course of the past few months. What the column is about is contained in its title — "30" — which means to the typesetter and proofreader that a story has ended and no more copy will follow. It is never easy to say goodbye. I would like to say my farewell without, I hope, getting too maudlin.

I enjoyed my time at NYLS. I know that there are many problems that have to be worked out, but through it all, I still had a good time. The years here have been among the most stimulating in my life. This does not mean that they were all pleasant, but only that I have changed. I am not the same person who arrived three years ago. This change has come about predominantly through interactions with the people here.

I leave NYLS with very mixed feelings. First, there is the feeling that my legal education has been reasonably sound, and that I have the tools with which to succeed in the real world. Second, some sadness over graduation, and the fact that there are many people I enjoy who won't be so accessible anymore. Third, concern about NYLS and its future.

More than anything else, NYLS now needs a school spirit,

a feeling that we — everyone at the school — are a community with common goals. NYLS has made tremendous strides in the last decade, but there seems to be a slowing of that momentum. The new administration should help to put us back on the right track, but we can't forget that it's the students who could make important contributions to the growth and development of NYLS. If they are encouraged to do so as students, many will continue their work as alumni. The next few years will show whether the changes made over the past several years have accomplished anything.

To my successors at Equitas, I am confident that you will carry out your role at NYLS in the tradition of those that came before you. I really believe that when all is said and done, you'll look back and come to the conclusion, as have I, that running this newspaper was your greatest challenge at law school.

Special thanks has to go to Dean Shapiro, who could have, but didn't, crush Equitas when it was at its lowest point. Given the opportunity to survive, we took Equitas from oblivion to an award winning newspaper once again. I hope to come back to NYLS years from now and see Equitas scattered around the school. I believe that the paper is vitally important to our education as law students. So to the classes of 1984, 1985 and 1986 I urge you to join the staff of Equitas and participate in the work of the NYLS community.

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ANNOUNCEMENTS:

Congratulations to the following NYLS students and alumni:
Miguel Fittipaldi, Esq. ('83) and his wife Karia for the birth of their little baby girl, on April 20th!

Engagements

Barbara Toop ('83) and Joe D'Avanzo, esq. ('82).
Robert Smith ('83) and Wendy Cohen ('83)
Frank Pallilo, esq. ('82) and Diane Corvino
Rozanne Sullivan ('84) and Lee Zimet
Jose Muniz ('84) and Jeanne Cameron
Congratulations to Prof. Miriam Haines who recently gave birth to twin boys!



Thomas Carr, Donna Lieberman, Rozanna Sullivan, Jose Muniz

Finalists:

HARLAN

Moot Court Competition

ASKING THE RIGHT QUESTIONSWendy R. Berman
Features Editor

A few years ago I sat in a surgeon's office. It was our last consultation before I entered the hospital for an operation.

The doctor suggested I ask him all the questions that were on my mind and he would answer them. I asked him every question that I would think of about hospital and surgical procedure. When I left his office I felt strangely uncomfortable, still not sure about what I was getting into.

In the hospital, the night before surgery, my internist, who had referred me to the specialist surgeon, came to speak to me. Knowing, perhaps, his colleague's manner of dealing with patients, he said he thought he'd better come and prepare me for some aspects of surgery that I might not be expecting. As he sat with me, describing possibilities such as catheters and oxygen masks, things that certainly would have been devastating had I not been prepared for them, I wondered why my surgeon had not told me of these things.

I suddenly realized that he hadn't mentioned these things because I hadn't asked about them! He answered all my questions. But, since I had never entered a hospital even to visit since I was ten years old and had my tonsils out and even then I didn't stay overnight, I didn't know the right questions to ask.

Throughout my three years at NYLS, I have often felt that the school administration is like that surgeon. The law school experience seemed designed only for those who had planned to be lawyers all the lives, knew what they were going to specialize in, or even if they hadn't been pre-law students, had the kind of undergraduate experience that would prepare them for the intense academic structure. There were no resources for people like me who were totally new to this sort of academic scene.

My undergraduate degree is in studio art and theatre. I hadn't taken a formal exam for ten years before I entered law school. I had rarely sat in a classroom. I had only written three research papers in my whole life, and the idea of becoming a lawyer hadn't entered my head until a few months before I came here. There are many students in school with variations of my story. I didn't know how to study, what I wanted to specialize in, or which courses and extra-curricular activities would be important to my future.

I found the guidance resources offered by the school to be so limited as to be virtually nonexistent. We were provided, at registration time, with a list of courses required for the Bar exam, and beyond that, told to seek out for themselves the advice of faculty members when planning our program.

How were we to know whether the faculty members to whom we were exposed during our first year were the right ones to ask for advice? And, more importantly, how were we to know what were the right questions? Would the person we sought out for advice be like the surgeon, waiting for the right questions, or like the other doctor, who knew which questions needed to be answered.

Leaving NYLS in a couple of months, I will have wonderful memories of friendships I made with students and certain professors who were there when I needed them, and for whose support I will always be grateful.

But, I will also be leaving with the frustrated feeling that I did not get all I could have out of the experience, a situation which could have been alleviated quite a bit if I had received more guidance.

The administration at NYLS is changing, and I know that part of those changes have been attempts at re-evaluating the school's policies and purposes. I hope that the new administration will reconsider what I call the 'bootcamp' theory of law school, where students are thrown into an intense, highly competitive, highly pressured environment, with a minimum of orientation, to see who will sink and who will swim.

I think this method of screening students out of the system is losing for the legal profession many individuals of great intellectual capacity, who may just have needed a little bit of nurturing to reach their full potential.

And isn't that what education is supposed to be about?

Moot Court

The Moot Court Association is pleased to announce that the following people have been elected to the Order of Barristers, the National Moot Court Honor Society:

Paul Angioletti
David Greene
Anna Guardino
Brenda Harms
Diana Heitmann
Sheila Hilley
Elizabeth Joslin
Mary Kates
Albert Talero
Barbara Toop

The Moot Court Association is also pleased to announce that Professor Kim Lang has been given an Honorary Faculty Appointment.

NYLS again had a fine year in the many outside Moot Court competitions held throughout the country. The following students participated in the various competitions: ABA National Appellate Advocacy Competition — Anna Lewis and Marc Lasrg; Donald Dickson and E. Drew Britcher.

Administrative Law: Patricia Duffy and Robert Smith; Benton Media Law: Richard Hart and David Greene; Kaufman Securities: Simon Kogan and Jane Hendry; Mock Trial: Lawton Squires and Sam Gregory; Fred Eckhaus and Carol Dancy (Quarter finalists); ABCNY National Team: Paul Angioletti, Martin Silverman and Alberto Talero; Giles Sutherland, Rich Patent Law Competition: Barbara Toop and Diana Heitman (semifinalists); Wagner Labor Law: Andrea Coleman, Christopher Souris and Julie Foshbinder.

The following teams advanced in the competition and won trophies or certificates: Mughal Tax: Ronald Balter, John Finnegan and Lance Hale (3rd place, brief); Craven Constitutional Law: Anna Guardino and Francesca Sabbatino (finalists)(2nd place team); Anti Trust: Brenda Harms, Sheila Hilley, and Elizabeth Joslin (first place)(Joslin, best oralist).

Jessup International Law: Thomas Collins, David Weiss, Sheara Friend and Teresa Sceliga (Regional 1st place; National 6th place; 2nd place brief; David Weiss 4th place oralist); 1983 National Team: Thomas Carr, Jose Muniz and Francesca Sabbatino. Congratulations to all!

The Bar Review

By D. Scott Conchar

People keep asking me if I know any good places to go for lunch or a drink. Being the bon vivant individual I can be at times, I exert all my energies to accommodate these people with suggestions. Today, as a lasting contribution to the well being of the "No, not N.Y.U." community, I am going to reveal these suggestions.

For lunch I highly recommend McGovern's Bar on Reade Street near the corner of Hudson. This gaelic establishment, replete with brass railings and saw dust on the floor, offers stout, reasonably priced drinks in a warm atmosphere. More importantly they serve fine, inexpensive food. For instance, \$3.00 will get you a one-half pound cheeseburger and a liberal (get it McGovern — liberal) amount of steak fries. The bill o'fare also includes large sandwiches and chili con carne. Being a mere three blocks away (turn right at the Acute Cate) McGovern's is an excellent lunch spot. Try it.

For you more adventuresome types who are willing to make the six block trek to Chinatown, I strongly recommend that you try the Mandarin Taste restaurant on East Broadway. This is absolutely the best Chinese restaurant in town (believe me, in the three years I've gone to school here I have eaten at virtually every restaurant in Chinatown, this is the best!) Everything on the menu there is good (except perhaps the fish head casserole which I wouldn't eat if my life depended on it) so I won't recommend any particular dish, though my favorite is the beef with far flavors. Try it, it's worth the walk.

For after school imbibing I suggest that you venture to Warren Street and try the Raccoon Lodge (which, as we all know, was Ralph Cramden's fraternal organization, you know The Grand Puba and all that). This pleasantly seedy bar, one store in from West Broadway comes complete with fireplace and pool table plus, for your aural pleasures, a jukebox stocked with all your favorite "tunes." While the Lodge is not susceptible to a definitive description, it can be characterized by analogy as a hip Galway. It's not for everyone but I'm sure many of you will enjoy its charms.

Well I've run out of time, deadline you know, so I'll end my column here. It's been a pleasure assisting you in your search for a release valve. Since I'm graduating (yeah!) I won't be able to help you anymore but rest assured that someone will take my place and lead you to bigger and better bars. Ta-ta.

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We have come a long way since all of the turmoil of the past year-and-a-half. We would like to thank all of the Deans, faculty and students who stuck by us during the "hard times." We know that the new editorial board will continue the tradition of excellence set by Equitas since 1969.

(Continued from Page 1)

Therefore, Professor Cerruti, who founded the clinic in 1977 and continues, at the same time to maintain a teaching schedule, and Professor Epstein have the agonizing job of choosing a very small group of students from among many who would greatly benefit.

Professor Cerruti says that they don't consider academic performance such as grades when choosing clinic members, but look for a manifest interest in going into litigation. This interest may be exhibited in activities before and since entering law school.

Clinical programs, especially ones as active as the NYLS Criminal Defense Clinic give students an expertise and training in the actual day by day duties of legal advocates which no classroom experience ever can. Perhaps the administration should consider more seriously, when dispersing allotments to different school programs, the benefits to the legal community and all people in need of legal counsel, of the type of training which would provide the most competent advocates.

This year's Phi Delta Phi Annual Awards Dinner was held on Wednesday, April 20th, at the Merchants Club. The faculty member specially honored this year as the Ira Stone Professor of the year was Professor Gerald Korngold. Also honored at the dinner were Congressman Mario Biaggi and Mr. Jerry Finkelstein, Publisher of the New York Law Journal. Mr. Finkelstein's son, James Finkelstein, accepted the award for his father.

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(Continued from Page 1)

towards each other, such feelings should not influence a lawyer in his conduct, attitude and demeanor toward opposing counsel.^{13/}

During the course of the trial an attorney should only make major objections. Objections during opening and closing statements should be extremely limited in order to avoid unnecessary disruption. An objection that is sustained during an opening statement disrupts the continuity of the presentation and destroys the impression counsel is attempting to create.^{14/} Therefore, an attorney should take great care to avoid objections by making sure that his opening address does not contain any objectionable material.

The opening statement should be devoid of matters such as "...references to pretrial settlement efforts or negotiations between the parties; making disparaging remarks concerning opposing counsel, the adverse party, or his case or witnesses; and improper appeal to racial, religious, social or political prejudices, or the wealth or poverty of the litigants or to the self interest of the jurors as taxpayers.^{15/}

Therefore, in order to ensure that he is fully and adequately prepared for all objections that may be foreseen at trial, "an attorney should analyze the pleadings to determine what facts are admitted or denied, enumerate the ways in which to prove or rebut each probably fact in issue, and prepare a list of objections that may be put to each such fact."^{16/} Whenever objections are made, an attorney should try to dispel or disregard them. With regards to summation, when trifling objections are made one should go ahead as though it never occurred and then, in hopes of forestalling other objections, one should suggest that he might enjoy his last opportunity to talk, "hopefully without interruptions."^{17/}

Other methods of punishing the attorney who interrupts, during opening statement, is to indicate to the jury that the interrupting attorney's objections are intended to keep the jury from knowing the facts which they should be apprized with.^{18/} This will indicate to the jury that counsel is an "obstructionist" who is fearful of the truth.

An opposing attorney may also say that he intends to prove that which is being objected to, and "with the help of that threshold phrase as a preface, almost everything is admissible."^{19/} However, where an attorney persists in making objections, the cross-examiner should "either interrupt the objection and ask that it be stated out of the presence of the witness, or let him finish his speech and then ask mildly: 'Are there any other in-

structions you want to give the witness as to how to answer the question, before we go on?"^{20/} Although such colloquy between counsels is not desirable, it is totally improper for defense counsel to instruct a witness in this manner, and therefore, it seems reasonably fair to offset such conduct by bringing it gently to the attention of the trier-of-fact.^{21/}

If there is an objection and a favorable ruling for the opposing attorney he should repeat what he was saying, including that which drew the interruption.^{22/} Additionally, the opposing counsel should "thank" the judge. The use of the words "thank you" is a method of making sure that the jury does not mistake the fact that you (the opposing attorney) have secured the advantage.^{23/} However, if an objection is sustained, the opposing attorney should not argue with the judge, but simply say "very well, your honor, (and to the jury) perhaps we will return to that later."^{24/}

Furthermore, the Code of Professional Responsibility of the American Bar Association states that "in appearing in his professional capacity before a tribunal, a lawyer shall not engage in undignified or discourteous conduct which is degrading to a tribunal."^{25/} It is important to note that an opposing attorney, as an "office of the court" is included within the phrase "tribunal."

Thus, it is apparent that, while maintaining his independence, an attorney should be respectful, and above-board in his relations with opposing counsel as well as with the presiding judge.^{26/} By failure to comply with these rules, an attorney runs the risk of being subjected to disciplinary action. It is equally obvious that a lawyer should not make unfair or derogatory remarks in reference to opposing counsel. Such haranguing and offensive tactics by lawyers interfere with the orderly administration of justice.^{27/}

In conclusion, it is my belief that our adversarial system would be a more pleasant workplace for all concerned if lawyers and judges treated each other with a little more respect and common courtesy.

This is important for the sake of improving our judicial process and is also something that is ethically required of all legal professionals, who are guardians of the law, so that the ends of justice may be served.

ENDNOTES

- 1) 16 Am. Jur. Trials § 114 (1969).
- 2) 12 Am. Jur. Trials § 78 (1966).
- 3) Model Code of Professional Responsibility, EC 7-36 (1979).
- 4) 6 Am. Jur. Trials § 5 (1967).
- 5) Id.
- 6) 6 Am. Jur. Trials § 29 (1967).
- 7) Id., § 5.
- 8) 6 Am. Jur. Trials § 7 (1967).
- 9) Id., § 10.
- 10) 6 Am. Jur. Trials § 10 (1967).
- 11) Id., § 11.
- 12) 6 Am. Jur. Trials § 11 (1967).
- 13) Model Code of Professional Responsibility, EC 7-36 (1979).
- 14) 5 Am. Jur. Trials § 22 (1966).
- 15) Id.
- 16) 6 Am. Jur. Trials § 6 (1967).
- 17) A. Julien, Opening Statements, § 7.02, (Callaghan & Company, 1980).
- 18) Id., § 5.12.
- 19) A. Julien, Opening Statements, § 1.18, (Callaghan & Company, 1980).
- 20) 6 Am. Jur. Trials § 5 (1967).
- 21) Id.
- 22) A. Julien, Opening Statements, § 1.18, (Callaghan & Company, 1980).
- 23) Id., § 8.07.
- 24) A. Julien, Opening Statements, § 1.18, (Callaghan & Company, 1980).
- 25) Model Code of Professional Responsibility, DR 7-106 (c) (6), (1979).
- 26) Id., EC 7-36.
- 27) Model Code of Professional Responsibility, EC 7-37 (1979).

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